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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2077

LORRAINE S. MUSHOK, R.C.P.
444 N. Via Pisa
Anaheim, CA 92806

A C C U S A T I O N

Respiratory Care Practitioner License No. 320

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California.

2. On or about March 29, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License No. 320 to LORRAINE S. MUSHOK, R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

6. Section 3750 of the Code states:

"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

"...."

"(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

"...."

7. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety

1 Code, or any dangerous drug as defined in Article 2 (commencing with section
2 4015) of Chapter 9.

3 "(b) Used any controlled substance as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code, or any
5 dangerous drug as defined in Article 2 (commencing with section 4015) of
6 Chapter 9.

7 "(c) Applied for employment or worked in any health care profession or
8 environment while under the influence of alcohol.

9 "..."

10 8. California Code of Regulations, title 16, section 1399.370, states:

11 "For the purposes of denial, suspension, or revocation of a license, a crime or act
12 shall be considered to be substantially related to the qualifications, functions or duties of
13 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
14 perform the functions authorized by his or her license or in a manner inconsistent with the
15 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
16 those involving the following:

17 "(a) Violating or attempting to violate, directly or indirectly, or assisting or
18 abetting the violation of or conspiring to violate any provision or term of the Act.

19 "..."

20 COST RECOVERY

21 9. Section 3753.5, subdivision (a) of the Code states:

22 "In any order issued in resolution of a disciplinary proceeding before the board,
23 the board or the administrative law judge may direct any practitioner or applicant found to have
24 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
25 investigation and prosecution of the case."

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1 10. Section 3753.7 of the Code states:

2 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
3 include attorney general or other prosecuting attorney fees, expert witness fees, and other
4 administrative, filing, and service fees."

5 11. Section 3753.1 of the Code states:

6 "(a) An administrative disciplinary decision imposing terms of probation may
7 include, among other things, a requirement that the licensee-probationer pay the monetary costs
8 associated with monitoring the probation. "

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Use of Alcohol)**

11 12. Respondent is subject to disciplinary action under sections 3750,
12 subdivision (g), and 3750.5, subdivision (c), in that she worked in a health care environment
13 under the influence of alcohol, as more particularly alleged hereinafter:

14 (a) On or about April 30, 2007, respondent arrived for work at the Anaheim
15 Memorial Hospital, 30 minutes late.

16 (b) Upon arrival, respondent was loud, inappropriate, and unsteady on her
17 feet. At least one coworker smelled alcohol on her breath.

18 (c) Respondent was not allowed to work that night and was sent home.

19 (d) The following morning, May 1, 2007, respondent returned to work and
20 admitted to the manager of respiratory care services that she had been drinking the day before
21 and had come to work drunk. Respondent was taken to Gateway Industrial Clinic for a physical
22 clearance to work.

23 (e) A sample taken from respondent revealed 75 ng/ml of THCA [marijuana
24 metabolite].

25 (f) Respondent was ultimately terminated from her employment with
26 Anaheim Memorial Hospital.

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